

United States District Court

For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BIBEKANAND SATPATHY, d/b/a AMADORE
ENTERTAINMENT,

Plaintiff,

v.

CATHAY PACIFIC AIRWAYS, LTD.;
COVENANT AVIATION SECURITY, LLC;
TRANSPORTATION SECURITY
ADMINISTRATION; CITY AND COUNTY OF
SAN FRANCISCO; THAI AIRWAYS
INTERNATIONAL, LTD. and DOES 1 to 50,

Defendants.

No. C 04-5334 CW

ORDER DECLINING
TO REMAND

The Court ordered the parties to show cause why this case should not be remanded to State court. Defendant Covenant Aviation Security, LLC (Covenant) filed a motion opposing remand on the grounds that jurisdiction is proper pursuant to 28 U.S.C. § 1331(a) and 28 U.S.C. § 1441(a). Plaintiff Bibekanand Satpathy did not

1 respond to the order. The matter was submitted on the papers. The
2 Court will not remand the case.

3 BACKGROUND

4 I. Procedural History

5 Plaintiff originally filed a civil complaint in the Superior
6 Court of the State of California against multiple defendants
7 alleging damage to baggage containing motion picture film. The
8 case was subsequently removed to federal court on December 16,
9 2004. On February 10, 2005, Plaintiff voluntarily dismissed his
10 claims against Defendant Transportation Security Administration
11 (TSA), and on March 25, 2005, Plaintiff voluntarily dismissed his
12 claims against Defendant City and County of San Francisco (San
13 Francisco).

14 On September 9, 2005, the Court granted a motion for summary
15 judgment submitted by Defendants Cathay Pacific Airways, LTD.
16 (Cathay Pacific) and Thai International Airways (Thai Airways),
17 finding that the rights and liabilities of those parties are
18 governed exclusively by the Warsaw Convention, 49 U.S.C. § 40104,
19 and Plaintiff's claims were barred for failure to give timely
20 notice. Covenant did not join the motion.

21 II. Relevant Facts

22 Covenant is a limited liability company organized under the
23 laws of the State of Illinois. (James Jacobson Dec. ¶ 3). The
24 sole member of Covenant is CAS Holdings, Inc. (CAS). (Id. at ¶ 4).
25 CAS is a corporation organized under the laws of the State of
26 Illinois and having its sole place of business in Illinois. (Id.
27 at ¶ 5). Plaintiff is, and at all times relevant here was, a
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1 resident of Alameda County, California.

2 DISCUSSION

3 Covenant contends that, because it is a citizen of Illinois
4 and Plaintiff is a citizen of California and the amount in
5 controversy exceeds \$75,000, diversity jurisdiction persists in
6 this case.

7 District courts have original jurisdiction over all civil
8 actions "where the matter in controversy exceeds the sum or value
9 of \$75,000, exclusive of interest and costs, and is between . . .
10 citizens of different States." 28 U.S.C. § 1332(a). When federal
11 subject matter jurisdiction is predicated on diversity of
12 citizenship, complete diversity must exist between the opposing
13 parties. Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 373-
14 74 (1978). If a case is filed in State court and a defendant seeks
15 removal to federal court, complete diversity generally must exist
16 at the time of the original action and at the time of the petition
17 for removal. 28 U.S.C. § 1441(b); Pullman Co. v. Jenkins, 305 U.S.
18 534, 537, 539 (1939).

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20 At the time this case was removed, complete diversity did not
21 exist because Defendant San Francisco shared citizenship with
22 Plaintiff. Moor v. County of Alameda, 411 U.S. 693, 717-18 (1973)
23 (counties and cities are citizens of a State for diversity
24 purposes). Nevertheless, federal jurisdiction was properly
25 exercised pursuant to 28 U.S.C. § 1441(d) and 1442(a)(1), because
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1 the complaint named a "foreign state" (Thai Airways) within the
2 meaning of 28 U.S.C. § 1603 and an agency of the United States
3 (TSA) as defendants. Subsequently, Plaintiff dismissed his claims
4 against the non-diverse San Francisco as well as the TSA. Then, on
5 September 9, 2005, the Court granted summary judgment to Thai
6 Airways and Cathay Pacific. Thus, the claims against all non-
7 diverse parties have been dismissed.

8
9 Covenant is a limited liability company. Federal courts have
10 treated the citizenship of limited liability corporations like that
11 of partnerships. See Handelsman v. Bedford Vill. Assoc. Ltd.
12 Partnership, 213 F.3d 48, 51-52 (2d Cir. 2000); Cosgrove v.
13 Bartolotta, 150 F.3d 729, 731 (7th Cir. 1998). Moreover, the
14 Supreme Court has held that the citizenship of limited liability
15 partnerships is not decided under the jurisdictional rule
16 established for corporations. Great S. Fire Proof Hotel Co. v.
17 Jones, 177 U.S. 449 (1900). Accordingly, Covenant's citizenship
18 "depends on the citizenship of all the members composing such
19 association." Carden v. Arkoma Ass'n, 494 U.S. 185, 195 (1990).
20 CAS is the sole member of Covenant and is incorporated and has its
21 sole place of business in Illinois. Thus, Covenant is a citizen of
22 Illinois.

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24 Plaintiff's complaint alleges, among other things, \$73,000 in
25 damages to his motion picture film as well as a loss of \$12,000,000
26 for a contract to produce a film. Thus, the amount in controversy
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